

**NINETEENTH LEGISLATIVE DAY
FRIDAY, JANUARY 28, 2005**

House of Representatives

The House convened at 8 a.m., the Speaker in the Chair.

Roll call showed 61 members present.

Absent and excused -- Bedke, Crow, Jones, Lake, Loertscher, Nielsen, Sali, Schaefer, Smith(24). Total -- 9.

Total -- 70.

Prayer was offered by Representative Clark.

The Pledge of Allegiance was led by Jennifer Stemple, Page.

Approval of Journal

January 28, 2005

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Eighteenth Legislative Day and recommend that same be adopted as corrected.

FIELD(18), Chairman

Mrs. Field(18) moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the
Governor and the Senate**

January 27, 2005

Mr. Speaker:

I transmit herewith **S 1002** which has passed the Senate.

WOOD, Secretary

S 1002 was filed for first reading.

Report of Standing Committees

January 28, 2005

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed **H 51, H 52, H 53, H 54, H 55, H 56, H 57, H 58, and H 59**.

FIELD(18), Chairman

H 52, H 53, H 54, H 55, and H 56 were referred to the Transportation and Defense Committee.

H 57, H 58, and H 59 were referred to the State Affairs Committee.

H 51 was filed for second reading.

January 28, 2005

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND

ADMINISTRATION, report that we have enrolled **H 5**.

FIELD(18), Chairman

The Speaker announced he was about to sign enrolled **H 5**, and, when so signed, ordered it transmitted to the Senate for the signature of the President.

There being no objection, the House advanced to the Eighth Order of Business.

**Introduction, First Reading, and Reference
of Bills and Joint Resolutions**

HOUSE BILL NO. 60

BY HARWOOD

AN ACT

RELATING TO MINERAL RIGHTS IN STATE LANDS; AMENDING SECTION 47-716, IDAHO CODE, TO PROVIDE THAT CERTAIN PROVISIONS AUTHORIZING THE LEASING OF THE BEDS OF THE NAVIGABLE RIVERS IN IDAHO SHALL APPLY TO DEPOSITS IN THEIR NATURAL STATE, DUMPS AND TAILINGS.

HOUSE BILL NO. 61

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS; AMENDING SECTION 9-339, IDAHO CODE, TO PROVIDE THAT A PUBLIC AGENCY, COMMISSION OR BOARD WITH NO FULL-TIME CLERICAL OR ADMINISTRATIVE EMPLOYEES SHALL HAVE TWENTY WORKING DAYS TO GRANT OR DENY A PERSON'S REQUEST AND SHALL PROVIDE THE RECORDS WITHIN THIRTY WORKING DAYS OF THE REQUEST; AND DECLARING AN EMERGENCY.

HOUSE BILL NO. 62

BY COMMERCE AND HUMAN RESOURCES

COMMITTEE

AN ACT

RELATING TO FUNERAL DIRECTORS; AMENDING SECTION 54-1109, IDAHO CODE, TO APPLY ENDORSEMENT PROVISIONS TO FUNERAL DIRECTORS.

HOUSE BILL NO. 63

BY COMMERCE AND HUMAN RESOURCES

COMMITTEE

AN ACT

RELATING TO WORKER'S COMPENSATION; AMENDING SECTION 72-204, IDAHO CODE, TO REVISE THE DEFINITION FOR "EMPLOYMENT" AND TO MAKE TECHNICAL CHANGES; AND AMENDING SECTION 72-212, IDAHO CODE, TO DELETE LANGUAGE EXEMPTING EMPLOYMENT THAT IS NOT CARRIED ON BY THE EMPLOYER FOR THE SAKE OF PECUNIARY GAIN.

HOUSE BILL NO. 64

**BY COMMERCE AND HUMAN RESOURCES
COMMITTEE**

AN ACT

APPROPRIATING EIGHT HUNDRED NINETY THOUSAND DOLLARS TO THE DEPARTMENT OF COMMERCE AND LABOR OF THE STATE OF IDAHO PURSUANT TO SECTION 903 OF THE FEDERAL SOCIAL SECURITY ACT, AS AMENDED, FOR EXPENSES INCURRED FOR COMPUTER ENHANCEMENTS THAT WILL IMPROVE THE ADMINISTRATION OF THE UNEMPLOYMENT INSURANCE PROGRAM AND PROVIDING THAT SAID APPROPRIATION IS AUTHORIZED BY AND SUBJECT TO THE LIMITATIONS OF SECTION 72-1346(4), IDAHO CODE; AND DECLARING AN EMERGENCY.

HOUSE BILL NO. 65

BY TRAIL

AN ACT

RELATING TO SALES AND USE TAXATION POLICIES AND ECONOMIC RECOVERY; PROVIDING A SHORT TITLE; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 63-3608, IDAHO CODE, TO INCLUDE SERVICES OR BENEFITS OF SERVICE IN THE DEFINITION OF "PURCHASE"; AMENDING SECTION 63-3609, IDAHO CODE, TO DEFINE A SERVICE PURCHASED FOR RESALE; AMENDING SECTION 63-3610, IDAHO CODE, TO INCLUDE A SELLER OF SERVICES IN THE DEFINITION OF "RETAILER"; AMENDING SECTION 63-3612, IDAHO CODE, TO PROVIDE THAT THE DELIVERY OR PERFORMANCE OF ANY SERVICE IN THIS STATE FOR A CONSIDERATION IS A SALE AND TO PROVIDE THAT THE SALE OF LOTTERY TICKETS AND PARI-MUTUEL BETTING TICKETS IS A SALE; AMENDING SECTION 63-3613, IDAHO CODE, TO INCLUDE SERVICES IN THE DEFINITION OF "SALES PRICE," TO DELETE THE EXCLUSION OF TRADE-IN VALUE INCLUDING REFERENCES TO MANUFACTURED HOMES AND MODULAR BUILDINGS, TO DELETE DELIVERY CHARGES AND CERTAIN OUTFITTER FEES FROM THE DEFINITION OF "SALES PRICE," TO DELETE PROVISIONS RELATING TO TELECOMMUNICATIONS EQUIPMENT AND TO DELETE PROVISIONS RELATING TO VENDING MACHINES; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3614A, IDAHO CODE, TO PROVIDE A DEFINITION OF "SERVICES"; AMENDING SECTION 63-3615, IDAHO CODE, TO PROVIDE THAT AS APPLIED TO SERVICES, "USE" MEANS THE PURCHASE OF OR THE RECEIPT OF THE BENEFIT OR ENJOYMENT OF SERVICES IN THIS STATE; AMENDING SECTION 63-3619, IDAHO CODE, AS ADDED BY SECTION 7, CHAPTER 318, LAWS OF 2003, TO REDUCE THE SALES TAX RATE FROM FIVE PERCENT TO FOUR PERCENT AND TO ADD REFERENCE TO SALES OF SERVICES; AMENDING SECTION 63-3621, IDAHO CODE, AS ADDED BY SECTION 8, CHAPTER 318, LAWS OF 2003, TO REDUCE THE USE TAX RATE FROM FIVE PERCENT TO FOUR PERCENT, TO ADD REFERENCE TO THE RECEIPT OR USE OF

SERVICES AND TO DELETE LANGUAGE REGARDING THE USE TAX EXEMPTION ON CERTAIN WIRELESS TELECOMMUNICATIONS EQUIPMENT; AMENDING SECTION 63-3622K, IDAHO CODE, TO DELETE THE DEFINITION OF "OCCASIONAL SALE" WHEN APPLIED TO THE SALE OF A MOTOR VEHICLE; REPEALING SECTION 63-3622Y, IDAHO CODE, AS ADDED BY SECTION 1, CHAPTER 435, LAWS OF 1990, AND SECTIONS 63-3622F, 63-3622G, 63-3622S, 63-3622V, 63-3622Y, 63-3622BB, 63-3622CC, 63-3622DD AND 63-3622GG, IDAHO CODE; AMENDING SECTION 67-7439, IDAHO CODE, TO DELETE THE RESTRICTION ON TAXATION OF LOTTERY TICKETS; AMENDING SECTION 63-3622D, IDAHO CODE, TO DELETE CODE REFERENCES; AMENDING SECTION 63-3622JJ, IDAHO CODE, TO DELETE REFERENCE TO A SALES TAX EXEMPTION FOR HEATING MATERIALS; AMENDING SECTION 63-3623, IDAHO CODE, TO DELETE REFERENCE TO A SALES TAX EXEMPTION FOR SALES THROUGH VENDING MACHINES; AMENDING SECTION 63-3640, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND PROVIDING SEVERABILITY.

HOUSE BILL NO. 66

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO THE BOARD OF SCALING PRACTICES; AMENDING SECTION 38-1209, IDAHO CODE, TO DECREASE THE MINIMUM NUMBER OF MEETINGS THE BOARD IS REQUIRED TO HOLD IN EACH CALENDAR YEAR.

HOUSE BILL NO. 67

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO FOREST PRACTICES ASSESSMENTS; AMENDING SECTION 38-134, IDAHO CODE, TO REVISE THE ASSESSMENT FOR FOREST LAND OWNERS OF TWENTY-FIVE ACRES OR LESS AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 68

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO GOVERNANCE OF UTILITY TYPE VEHICLES; AMENDING SECTION 67-7101, IDAHO CODE, TO DEFINE "UTILITY TYPE VEHICLE"; AMENDING SECTION 67-7122, IDAHO CODE, TO GOVERN REGISTRATION REQUIREMENTS; AMENDING SECTION 67-7128, IDAHO CODE, TO PROVIDE REPRESENTATION ON THE OFF-ROAD MOTOR VEHICLE ADVISORY COMMITTEE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-105, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-122, IDAHO CODE, TO DEFINE "UTILITY TYPE VEHICLE"; AMENDING SECTION 49-501, IDAHO CODE, TO GOVERN TITLING REQUIREMENTS FOR UTILITY TYPE VEHICLES; AND AMENDING SECTION 49-1608,

IDAHO CODE, TO PROVIDE APPLICATION TO DEALERS OF UTILITY TYPE VEHICLES AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 69
BY ELLSWORTH, JAQUET, AND WOOD
AN ACT

RELATING TO THE REGULATION OF TELEPHONE CORPORATION BASIC LOCAL EXCHANGE RATE; AMENDING SECTION 62-622, IDAHO CODE, TO MODIFY THE PROCEDURE FOR ESTABLISHING THE MAXIMUM RATE TO BE CHARGED FOR BASIC LOCAL EXCHANGE SERVICE AND FOR NONRECURRING CHARGES FOR SERVICES RELATED THERETO BY INCUMBENT TELEPHONE CORPORATIONS, TO AUTHORIZE REALIGNMENT OF PRICES BETWEEN RESIDENTIAL AND SMALL BUSINESS SERVICES UPON A FINDING BY THE PUBLIC UTILITIES COMMISSION THAT SUCH REALIGNMENT IS NOT CONTRARY TO THE PUBLIC INTEREST AND IS REVENUE NEUTRAL TO THE TELEPHONE CORPORATION, AND TO PROVIDE THAT ESTABLISHMENT OF MAXIMUM ALLOWABLE BASIC LOCAL EXCHANGE RATES PURSUANT TO THIS ACT SHALL BE IN LIEU OF FURTHER RATE REGULATION EXCEPT AS PROVIDED BY THIS ACT; AND AMENDING CHAPTER 6, TITLE 62, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 62-622A, IDAHO CODE, TO PROVIDE PUBLIC UTILITY COMMISSION AUTHORITY TO ESTABLISH A MINIMUM PRICE FOR BASIC LOCAL EXCHANGE SERVICE UPON COMPLAINT BY ANOTHER TELEPHONE CORPORATION RELATING TO BELOW VARIABLE COST PRICING FOR SUCH SERVICES BY TELEPHONE CORPORATIONS NOT SUBJECT TO TITLE 61, IDAHO CODE.

HOUSE BILL NO. 70
BY RESOURCES AND CONSERVATION COMMITTEE
AN ACT

RELATING TO ADVISORY COMMITTEES OF THE DEPARTMENT OF PARKS AND RECREATION; AMENDING SECTION 57-1503, IDAHO CODE, TO PROVIDE FOR APPOINTMENT OF WATERWAYS IMPROVEMENT FUND ADVISORY COMMITTEE MEMBERS BY THE PARK AND RECREATION BOARD; AMENDING SECTION 67-4223, IDAHO CODE, TO ESTABLISH LENGTH OF TERM FOR MEMBERS OF THE RECREATIONAL VEHICLE ADVISORY COMMITTEE; AND AMENDING SECTION 67-7128, IDAHO CODE, TO ESTABLISH LENGTH OF TERM AND THE RATE OF COMPENSATION FOR MEMBERS OF THE OFF-ROAD MOTOR VEHICLE ADVISORY COMMITTEE AND TO MAKE A TECHNICAL CORRECTION.

HOUSE BILL NO. 71
BY RESOURCES AND CONSERVATION COMMITTEE
AN ACT

RELATING TO PERMITS FOR ENCROACHMENTS ON STATE NAVIGABLE WATERS; AMENDING SECTION 58-1312, IDAHO CODE, TO PROVIDE A PERMITTING

PROCESS FOR ENCROACHMENTS CONSTRUCTED PRIOR TO 1975.

HOUSE BILL NO. 72
BY BUSINESS COMMITTEE
AN ACT

RELATING TO THE RESIDENTIAL MORTGAGE PRACTICES ACT; AMENDING SECTION 26-3103, IDAHO CODE, TO REMOVE THE EXEMPTION FOR CERTAIN AGENTS WHO ACT UNDER EXCLUSIVE CONTRACTS.

HOUSE BILL NO. 73
BY BUSINESS COMMITTEE
AN ACT

RELATING TO THE RESIDENTIAL MORTGAGE PRACTICES ACT; AMENDING SECTION 26-3102, IDAHO CODE, TO UPDATE REFERENCES TO FEDERAL PROVISIONS.

HOUSE BILL NO. 74
BY BUSINESS COMMITTEE
AN ACT

RELATING TO THE IDAHO CREDIT CODE; AMENDING SECTION 28-41-302, IDAHO CODE, TO UPDATE REFERENCES TO FEDERAL PROVISIONS.

HOUSE BILL NO. 75
BY BUSINESS COMMITTEE
AN ACT

RELATING TO THE IDAHO MONEY TRANSMITTERS ACT; AMENDING SECTION 26-2914, IDAHO CODE, TO REVISE THE DIRECTOR'S AUTHORITY TO CONDUCT EXAMINATIONS AND INVESTIGATIONS; AMENDING SECTION 26-2915, IDAHO CODE, TO REQUIRE THAT ADDITIONAL REPORTS BE MAINTAINED AND TO PROVIDE THAT RECORDS MUST BE MADE ACCESSIBLE TO THE DIRECTOR ON SEVEN DAYS' WRITTEN NOTICE IF THE RECORDS ARE MAINTAINED OUT OF STATE; AMENDING SECTION 26-2916, IDAHO CODE, TO REVISE CONDITIONS FOR THE RELEASE OF INFORMATION, TO DELETE LANGUAGE PROVIDING THAT THE DIRECTOR MAY RELEASE INFORMATION WITHOUT PRIOR NOTICE TO A LAW ENFORCEMENT AGENCY IN CONNECTION WITH A CRIMINAL REFERRAL AND TO MAKE A TECHNICAL CHANGE; AND AMENDING SECTION 26-2917, IDAHO CODE, TO PROVIDE FOR NOTICE AND OPPORTUNITY FOR HEARING FOR PURPOSES OF THE SUSPENSION OR REVOCATION OF LICENSES, TO REVISE THE GROUNDS UPON WHICH A LICENSE MAY BE SUSPENDED OR REVOKED AND TO MAKE A TECHNICAL CHANGE.

HOUSE BILL NO. 76
BY BARRETT AND DENNEY
AN ACT

RELATING TO STATE INCOME TAX CREDITS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029H, IDAHO CODE, TO PROVIDE A SCHOOL CHOICE INCOME TAX

CREDIT FOR QUALIFIED DONATIONS MADE TO QUALIFYING STUDENTS IN SUPPORT OF THE EDUCATION OF A STUDENT ENROLLED IN AN EDUCATIONAL PROGRAM WITHIN THE STATE OF IDAHO AT THE ELEMENTARY OR SECONDARY LEVEL; AND PROVIDING AN EFFECTIVE DATE.

HOUSE JOINT RESOLUTION NO. 1
BY BARRETT AND WOOD
 A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE VII, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 18, ARTICLE VII, RELATING TO A TAXPAYER'S BILL OF RIGHTS TO LIMIT LEGISLATIVE APPROPRIATIONS AND EXPENDITURES IN ANY FISCAL YEAR TO THE SUM OF THE TOTAL APPROPRIATION FOR THE PREVIOUS FISCAL YEAR AND THE AVERAGE OF THE ANNUAL PERCENTAGE CHANGES OF THE THREE IMMEDIATELY PRECEDING CALENDAR YEARS IN THE COST OF LIVING AND POPULATION, TO PROVIDE DEFINITIONS, TO CREATE THE TAXPAYERS' RESERVE FUND, TO PROVIDE FOR MAINTENANCE OF A BUDGET STABILIZATION FUND, TO PROVIDE FOR DEPOSIT OF CERTAIN STATE REVENUES COLLECTED IN EXCESS OF APPROPRIATIONS AND EXPENDITURES TO THE TAXPAYERS' RESERVE FUND, TO PROVIDE FOR WITHDRAWAL OF MONEYS FROM THE TAXPAYERS' RESERVE FUND, TO PROVIDE FOR TRANSFERS OF MONEYS BY OPERATION OF LAW AS SUCH EXIST ON DECEMBER 31, 2006, TO REQUIRE A TWO-THIRDS MAJORITY VOTE FOR ANY INCREASE IN A DISCRETIONARY USER CHARGE OR FOR TRANSFERS OF MONEYS BY OPERATION OF LAW CREATED ON AND AFTER JANUARY 1, 2007, AND TO PROVIDE EXEMPTIONS FROM EXPENDITURE LIMITS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

H 60, H 61, H 62, H 63, H 64, H 65, H 66, H 67, H 68, H 69, H 70, H 71, H 72, H 73, H 74, H 75, H 76, and HJR 1 were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

S 1002, by Goedde, was introduced, read the first time by title, and referred to the Transportation and Defense Committee.

There being no objection, the House advanced to the Tenth Order of Business.

Second Reading of Bills and Joint Resolutions

S 1029, by Finance Committee, was read the second time by title and filed for third reading.

Third Reading of Bills and Joint Resolutions

Mr. Denney asked unanimous consent that all bills on the Third Reading Calendar retain their places until Monday, January 31, 2005. There being no objection, it was so ordered.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Denney moved that the House adjourn until 11 a.m., Monday, January 31, 2005. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House adjourned at 8:20 a.m.

BRUCE NEWCOMB, Speaker

ATTEST:

PAMM JUKER, Chief Clerk